

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

VICTOR GARCIA,

Plaintiff,

v.

2:20-cv-00601-GJF-CG

DOUGLAS FORD CHIEF CLOVIS  
POLICE DEPARTMENT, DETECTIVE  
ALBERT SENA, SERGEANT RAFAEL AGUILAR,  
OFFICER BRICE STACEY, OFFICER  
DARREN MCPHERSON, OFFICER JACOB BONNER, OFFICER  
STEVEN COPE, OFFICER DAGOBERTO RODRIGUEZ,  
OFFICER SANTINO AND JOHN DOE 1 CURRY COUNTY  
DETENTION CENTER,

Defendants.

**DEFENDANTS FORD, STACEY AND RODRIGUEZ ANSWER TO PLAINTIFF'S  
AMENDED COMPLAINT**

COMES NOW Defendant Douglas Ford, Brice Stacey, and Dagoberto Rodriguez (incorrectly named as Daboberto Rodriguez), hereinafter "Defendants", by and through their attorneys Lewis Brisbois Bisgaard & Smith LLP (Gregory L. Biehler), and for their Answer Plaintiff's Amended Complaint states as follows:

**JURISDICTION**

1. Defendants admit the allegations in Paragraph's 1 and 2 of Plaintiff's Amended Complaint.

**VENUE**

2. With regard to Venue, Defendants are without sufficient information to admit or deny the allegations contained in Paragraph's 3 and 4 of Plaintiff's Amended Complaint and therefore denies the same.

## **PARTIES**

1. Defendants are without sufficient information to admit or deny the allegations contained in Paragraph's 1 through 6 of Plaintiff's Amended Complaint and therefore denies the same.

2. Defendants are without sufficient information to admit or deny the allegations contained in Paragraph's 7 through 9 of Plaintiff's Amended Complaint and therefore denies the same.

## **FACTS**

1. Defendants are without sufficient information to admit or deny the allegations contained in Paragraph's 1 through 29 of Plaintiff's Amended Complaint and therefore denies the same.

2. Defendants deny the allegations contained in Paragraph 30 of Plaintiff's Amended Complaint.

3. Defendants deny the allegations contained in Paragraph 31 of Plaintiff's Amended Complaint.

4. Defendants are without sufficient information to admit or deny the allegations contained in Paragraph 32 through 38 of Plaintiff's Amended Complaint and therefore denies the same.

5. Defendants deny the allegations contained in Paragraph 39 of Plaintiff's Amended Complaint.

6. Defendants are without sufficient information to admit or deny the allegations contained in Paragraph's 40 through 64 of Plaintiff's Amended Complaint and therefore denies the same.

**COUNT ONE: FAILURE TO TRAIN**

7. In response to the allegations contained in Paragraph 65 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 64 as if contained herein.

8. Defendants deny the allegations contained in Paragraph 66 through 68 of Plaintiff's Amended Complaint.

**COUNT TWO: VIOLATION OF FOURTH AMENDMENT RIGHTS FOR  
ILLEGAL SEIZURE**

9. In response to the allegations contained in Paragraph 69 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 68 as if contained herein.

10. Defendants deny the allegations contained in Paragraph's 70 through 75 of Plaintiff's Amended Complaint.

**COUNT THREE: VIOLATION OF FOURTH AMENDMENT RIGHTS DURING  
MULTIPLE AND EXCESSIVE SEARCHES OF MR. GARCIA'S PERSON**

11. In response to the allegations contained in Paragraph 76 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 75 as if contained herein.

12. Defendants deny the allegations contained in Paragraph's 77 through 83 of Plaintiff's Amended Complaint.

13. Defendants deny the allegations contained in Paragraph's through 83 of Plaintiff's Amended Complaint.

**COUNT FOUR: VIOLATION OF FOURTH AMENDMENT RIGHTS FOR  
ILLEGAL ARREST**

14. In response to the allegations contained in Paragraph 84 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 83 as if contained herein.

15. Defendants deny the allegations contained in Paragraph's 85 through 89 of Plaintiff's Amended Complaint.

**COUNT FIVE: VIOLATION OF FOURTH AMENDMENT RIGHTS DURING  
PUBLIC STRIP SEARCH**

16. In response to the allegations contained in Paragraph 90 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 89 as if contained herein.

17. Defendants deny the allegations contained in Paragraph's 91 through 96 of Plaintiff's Amended Complaint.

**COUNT SIX: VIOLATION OF FOURTH AMENDMENT RIGHTS FOR  
WRONGFUL ARREST BASED ON UNREASONABLE PUBLIC STRIP SEARCH**

18. In response to the allegations contained in Paragraph 97 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 96 as if contained herein.

19. Defendants deny the allegations contained in Paragraph's 98 through 101 of Plaintiff's Amended Complaint.

**COUNT SEVEN: VIOLATION OF FOURTH AMENDMENT RIGHTS DURING  
SECOND STRIP SEARCH**

20. In response to the allegations contained in Paragraph 102 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 101 as if contained herein.

21. Defendants deny the allegations contained in Paragraph's 103 through 109 of Plaintiff's Amended Complaint.

**COUNT EIGHT: VIOLATION OF FOURTEENTH AMENDMENT RIGHTS-  
EQUAL PROTECTIVE**

22. In response to the allegations contained in Paragraph 110 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 109 as if contained herein.

23. Defendants deny the allegations contained in Paragraph's 111 through 116 of Plaintiff's Amended Complaint.

**COUNT NINE: VIOLATION OF FOURTEENTH AMENDMENT RIGHTS-DUE  
PROCESS OF LAW**

24. In response to the allegations contained in Paragraph 117 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 118 as if contained herein.

25. Defendants deny the allegations contained in Paragraph's 118 through 124 of Plaintiff's Amended Complaint.

**COUNT TEN: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS  
DURING UNCONSTITUTIONAL PUBLIC STRIP SEARCH**

26. In response to the allegations contained in Paragraph 125 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 124 as if contained herein.

27. Defendants deny the allegations contained in Paragraph's 126 through 130 of Plaintiff's Amended Complaint.

**COUNT ELEVEN: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS  
DURING SECOND UNREASONABLE STRIP SEARCH**

28. In response to the allegations contained in Paragraph 131 of Plaintiff's Amended Complaint, Defendants reallege and incorporate their responses to Paragraph 1 through 130 as if contained herein.

29. Defendants deny the allegations contained in Paragraph's 132 through 136 of Plaintiff's Amended Complaint.

**FIRST AFFIRMATIVE DEFENSE**

1. Plaintiff's claims fail to state of action upon which relief may be obtained.

**SECOND AFFIRMATIVE DEFENSE**

2. These Defendants are immune and qualifiedly immune from the claims being made by Plaintiff.

**THIRD AFFIRMATIVE DEFENSE**

3. Plaintiff's claims are limited by any failure to mitigate.

**FOURTH AFFIRMATIVE DEFENSE**

4. Plaintiff's claims are barred by the statute of limitations, and failure to timely serve each and every Defendant.

**FIFTH AFFIRMATIVE DEFENSE**

5. These Defendants reserve the right to assert such other or further defenses that may become apparent from discovery and/or investigation.

**SIXTH AFFIRMATIVE DEFENSE**

6. Plaintiff's claims are barred by estoppel and laches.

WHEREFORE, these Defendants respectfully requests this Court to enter an order dismissing Plaintiff's Amended Complaint with prejudice, for costs, fees, and such other or further relief as the Court may deem just.

A jury is demanded by these Defendants of all facts so triable.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Gregory L. Biehler  
Gregory L. Biehler  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 13<sup>th</sup> day of October, 2020, I filed the foregoing electronically through the Court's CMECF filing system, which caused the following parties to be served by electronic means, as per the Notice of Electronic Filing:

Freeman C. Faust  
The Faust Law Firm

[freemanfaust@thefaustlawfirm.com](mailto:freemanfaust@thefaustlawfirm.com)

/s/Gregory L. Biehler

Gregory L. Biehler